

RAJ V. ABHYANKER, California SBN 233,284

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LEGALFORCE RAPC WORLDWIDE

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Attorneys for Plaintiffs,

LegalForce RAPC Worldwide, P.C.

LegalForce Inc., and Raj V. Abhyanker

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

UNLIMITED JURISDICTION

1. LEGALFORCE RAPC
WORLDWIDE, P.C.;
2. LEGALFORCE INC.; AND
3. RAJ V. ABHYANKER,

Plaintiffs,

V.

1. MYCORPORATION
BUSINESS SERVICES, INC.;
2. DEBORAH S. SWEENEY;
3. STATE BAR OF
CALIFORNIA; AND
4. UNITED STATES PATENT &
TRADEMARK OFFICE.

Defendants;

AND DOES 1-50.

Case No. 5:18-cv-142

COMPLAINT FOR:

1. DECLARATORY
JUDGMENT;
2. FEDERAL UNFAIR
COMPETITION;
3. CALIFORNIA UNFAIR
COMPETITION;
4. PROFESSIONAL
NEGLIGENCE; AND
5. BREACH OF FIDUCIARY
DUTIES.

Unlimited Civil Jurisdiction

JURY TRIAL DEMANDED

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2 1. Plaintiffs LegalForce RAPC Worldwide, P.C., LegalForce, Inc., and Raj
3 V. Abhyanker (jointly, “LegalForce” or “Plaintiffs”) submit the following
4 complaint (the “Complaint”) against MyCorporation Business Services, Inc.
5 (operating the website MyCorporation.com, “MyCorporation”), and its principal
6 owner attorney Deborah Sue Sweeney (“Sweeney” who is collectively referred
7 to with MyCorporation as “MyCorporation Entities”). Plaintiffs join necessary
8 defendants the United States Patent & Trademark Office (“USPTO”) and the
9 State Bar of California.
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12 NATURE OF ACTION

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14 2. This Complaint is brought by Plaintiffs to expose the willful acts of
15 signing trademark applications on behalf of applicants on USPTO forms by
16 non-attorney staff at MyCorporation with respect to preparation and filing of
17 trademark applications before the United States Patent & Trademark Office
18 (“USPTO”). Through this act, MyCorporation harms the public interest; public
19 consumers become susceptible to the risk of having trademark rights canceled by
20 the USPTO should trademarks filed through MyCorporation ever be challenged
21 by third-parties as described on the USPTO website **Exhibit H**.¹
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27 ¹ USPTO website, “Applicants and registrants represented by excluded parties” Any power of attorney granted to
28 the excluded party is void ab initio, meaning it was invalid from the start of any action taken by the excluded
Party,
<https://www.uspto.gov/trademark/trademark-updates-and-announcements/applicants-and-registrants-represented-excluded>, last checked January 6, 2018.

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1 place of business at 1580 W. El Camino Real Suite 10, Mountain View
2 California 94040, and a law office at 446 E. Southern Avenue Tempe Arizona
3 85282.
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5 5. Plaintiff LegalForce, Inc. is a Delaware corporation offering law firm
6 automation and free trademark search services through its website
7 Trademarkia.com with a principal place of business at 1580 W. El Camino Real
8 Suite 9, Mountain View California 94040.
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11 6. Plaintiff Raj Abhyanker is a California licensed attorney practicing patent
12 and trademark law before the USPTO with a principal place of business at 1580
13 W. El Camino Real Suite 10, Mountain View California 94040, is the sole
14 shareholder of Plaintiff LegalForce RAPC Worldwide and is a CEO of Plaintiff
15 LegalForce, Inc.
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18 **The Defendants**

19 7. MyCorporation Business Services, Inc. is a Delaware corporation
20 (“MyCorporation”) with a principal place of business at 26025 Mureau Rd Ste
21 120, Calabasas, CA 91302-3180. Upon reason and belief, MyCorporation
22 Business Services, Inc. is not a law firm in the United States and is not
23 authorized to practice law in any state. MyCorporation Business Services, Inc.
24 is not a registered or bonded legal document assistant under California Business
25 and Professions Code, sections §6400 et seq.
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1 8. Defendant Deborah Sweeney (“Sweeney”) is an owner and Chief
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3 Executive Officer of MyCorporation Business Services, Inc, and a licensed
4 California attorney, having a principal place of business at 26025 Mureau Rd Ste
5 120, Calabasas, CA 91302-3180.
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7 9. Defendant the State Bar of California is the agency responsible governing
8 the conduct of the licensed attorneys and bringing enforcement actions against
9 entities engaging in the unauthorized practice of law in the State of California.
10 Accordingly, it is named as a necessary defendant as it governs the conduct of
11 California licensed attorneys, with a principal place of business at 180 Howard
12 Street, San Francisco CA 94105.
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15 10. Defendant the United States Patent & Trademark Office (“USPTO”), a
16 branch of the United States Department of Commerce, is being added as a
17 necessary defendant as it governs the conduct of U.S. state licensed attorneys
18 and registered patent attorneys before the United States Patent & Trademark
19 Office, with a principal place of business at 600 Dulany Street, Alexandria VA
20 22314. The United States Patent & Trademark Office also maintains a Silicon
21 Valley office located at 26 S 4th St, San Jose, California 95112.
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24 11. DOES 1-50 are entities that participated in the transactions complained
25 of herein in ways which are unknown to Plaintiffs. The true names, capacities,
26 nature, and extent of participation in the alleged activities by DOES 1-50,
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1 inclusive, are unknown to Plaintiffs and therefore Plaintiffs sue these Defendants
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3 by such fictitious names. Plaintiffs will amend the complaint to allege their true
4 names and capacities when ascertained.

5 **BACKGROUND OF THE PARTIES**

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7 12. Plaintiff LegalForce RAPC Worldwide is a law firm wholly owned by
8 Plaintiff Raj Abhyanker, a member in good standing of the State Bar of
9 California, and the United States Patent Bar. The Firm practices patent and
10 trademark law before the USPTO with a principal place of business at 1580 W.
11 El Camino Real Suite 10, Mountain View California 94040, and a law office at
12 446 E. Southern Avenue Tempe Arizona 85282.
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15 13. The website Trademarkia.com was created by the law firm of LegalForce
16 RAPC Worldwide in 2009 but was spun off into a separate entity. Plaintiff
17 LegalForce RAPC Worldwide is the sole provider of legal services through the
18 website Trademarkia.com with respect to trademark filings before the USPTO.
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20 14. LegalForce RAPC Worldwide employs, full time, more than ten (10)
21 U.S. licensed trademark attorneys in its California and Arizona offices who
22 substantially limit their practice to trademark law before the USPTO, and who
23 are supported by legal support staff globally including in India, China, Poland,
24 the United Kingdom and South Africa. LegalForce RAPC Worldwide
25 represents more than 10,000 clients from all over the United States and world,
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1 including over a thousand clients from the State of California.

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3 15. LegalForce RAPC Worldwide is the largest law firm filer of trademarks
4 before the USPTO in each of the last five years. The firm maintains interest on
5 Lawyer Trust Account (IOLTA) trust accounts for all client funds, conducts
6 robust conflict checks, and currently employs two former USPTO trademark
7 examining attorneys. It has never been disciplined by the USPTO or the State
8 Bar of California. At least two of its former attorneys are currently working as
9 USPTO trademark examining attorneys after leaving LegalForce RAPC, and a
10 number of its former associate attorneys or legal assistants have been hired in
11 trademark and IP departments of leading Big Law IP firms including Orrick,
12 Perkins Coie, Pillsbury Winthrop, DLA Piper, and Wilson Sonsini Goodrich &
13 Rosati as well as in legal departments at leading technology companies,
14 including Google, Inc., Facebook, Inc., Apple, Inc., and Electronic Arts, Inc.
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19 16. Plaintiff LegalForce, Inc. is a Delaware corporation offering law firm
20 automation and free trademark search services through its website
21 Trademarkia.com with a principal place of business at 1580 W. El Camino Real
22 Suite 9, Mountain View California 94040. The Chief Executive Officer (CEO)
23 and co-founder of Plaintiff LegalForce, Inc. is Plaintiff Raj Abhyanker. Plaintiff
24 LegalForce, Inc. makes no revenue from preparation and filing on U.S.
25 trademark applications. It receives a flat monthly technology licensing revenue
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1 from Plaintiff LegalForce RAPC Worldwide independent of the legal services
2 revenue secured by the firm LegalForce RAPC Worldwide through the
3 Trademarkia.com website.
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5 17. Plaintiff Raj Abhyanker is a California licensed attorney (Bar No.
6 233,284) practicing patent & trademark law before the USPTO (USPTO Reg.
7 No. 45,474) with a principal place of business at 1580 W. El Camino Real Suite
8 10, Mountain View California 94040. Raj is the sole shareholder of Plaintiff
9 LegalForce RAPC Worldwide and is a CEO of Plaintiff LegalForce, Inc. In
10 2013, he was named an American Bar Association Journal "Legal Rebel," an
11 "annual honors program for the change leaders of the legal profession"² and a
12 member of the Fastcase 50, an annual award that "recognizes 50 of the smartest,
13 most courageous innovators, techies, visionaries, and leaders in the law."³
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18 18. MyCorporation Business Services, Inc. is a Delaware corporation
19 ("MyCorporation") with a principal place of business at 26025 Mureau Rd Ste
20 120, Calabasas, CA 91302-3180. Upon reason and belief, MyCorporation
21 Business Services, Inc is not a law firm in the United States and is not
22 authorized to practice law in any state. MyCorporation Business Services, Inc is
23 not a registered or bonded legal document assistant under California Business
24 and Professions Code, sections §6400 et seq. MyCorporation was sold to
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² http://www.abajournal.com/magazine/article/2013_legal_rebels_a_banner_year

³ <http://www.fastcase.com/fastcase50-winners-2013>.

1 publicly traded Intuit, Inc., maker of the popular QuickBooks® software and
2 TurboTax® on November 21, 2005 for twenty million dollars (\$20,000,000) in
3 cash from Nellie Akalp and her attorney Deborah Sweeney. **(Exhibit J)**.
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5 19. Defendant Deborah Sweeney (“Sweeney”) is an owner and Chief
6 Executive Officer of MyCorporation Business Services, Inc, and a licensed
7 California attorney (Bar No. 201,659), having a principal place of business at
8 26025 Mureau Rd Ste 120, Calabasas, CA 91302-3180. Sweeney repurchased
9 MyCorporation from Intuit, Inc. in July 2009. **(Exhibit K)**.
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11 20. Defendant the State Bar of California is the agency responsible governing
12 the conduct of the licensed attorneys and bringing enforcement actions against
13 entities engaging in the unauthorized practice of law in the State of California.
14 Accordingly, it is named as a necessary defendant as it governs the conduct of
15 California licensed attorneys, with a principal place of business at 180 Howard
16 Street, San Francisco CA 94105.
17

18 21. Defendant the United States Patent & Trademark Office (“USPTO”), a
19 branch of the United States Department of Commerce, is being added as a
20 necessary defendant as it governs the conduct of U.S. state licensed attorneys
21 and registered patent attorneys before the United States Patent & Trademark
22 Office, with a principal place of business at 600 Dulany Street, Alexandria VA
23 22314. The United States Patent & Trademark Office also maintains a Silicon
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Valley office located at 26 S 4th St, San Jose, California 95112.

JURISDICTION AND VENUE

22. This Complaint arises under the laws of the United States, 15 U.S.C. §1125 *et seq.* This Court has original jurisdiction of this action under 28 U.S.C. §1331 because at least some of the claims alleged herein arise under federal law. This Court has supplemental jurisdiction under 28 U.S.C. §1367 over any non-federal claims because such claims are so related as to form part of the same case or controversy. Moreover, Plaintiffs have standing to their California state claims under the California Business and Professions Code in accordance to California appellate case law in *Higbee v. Expungement Assistance Services*.⁴

23. This Court has personal jurisdiction over MyCorporation because the defendants solicit, transact and does business in California and this District via its website and at least one toll-free telephone number, a substantial part of the wrongful acts or omissions complained of herein occurred in this District. MyCorporation purposefully directed its activities toward this District when it willfully and specifically targeted consumers here and a substantial part of the harm was felt in this District.

⁴ 214 Cal. App. 4th 544 *; 153 Cal. Rptr. 3d 865 **; 2013 Cal. App. in which the court concluded that the attorney alleged an identifiable trifle of injury sufficient to withstand a demurrer. The attorney alleged that he suffered losses in revenue and asset value and was required to pay increased advertising costs specifically because of the provider's unlawful business practices. To have standing under the UCL, the attorney was not required to have engaged in business dealings with the provider. The court saw no reason why the alleged violation of statutes concerning the unauthorized practice of law could not serve as a predicate for the attorney's UCL action. According to the attorney, the provider's unlawful business practices had taken customers away from him.

1 24. Venue is proper in the United States District Court for the Northern
2
3 District of California under 28 U.S.C. §§ 1391 (b) and (c).

4 **HARM TO PUBLIC INTEREST**

5 25. Through its acts of signing federal USPTO trademarks, MyCorporation
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7 harms the “public interest” in that public consumers become susceptible to the
8 risk of unenforceable U.S. trademarks signed and filed by unlicensed,
9 un-trained, and uninformed non-lawyers.

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11 26. Since MyCorporation Business Services, Inc is not a “law firm”, then it is
12 necessarily a non-lawyer that operates beyond the reach of protections built into
13 the legal profession. Because regulatory protections are built into the legal
14 profession, but no regulatory protections are in place for online legal services,
15 consumers are worse off when their U.S. trademark applications are signed by
16 non-attorneys at MyCorporation than by licensed attorneys at Plaintiff
17 LegalForce RAPC Worldwide.

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19 27. Through its acts of signing trademark applications on behalf of customers
20 when filing trademarks, MyCorporation harms the public interest in that
21 consumers become susceptible having their trademarks canceled by the USPTO
22 should trademarks filed through MyCorporation ever be challenged by
23 third-parties as described on the USPTO website **Exhibit H**.⁵
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28 ⁵ USPTO website, “Applicants and registrants represented by excluded parties” Any power of attorney granted to the excluded party is void ab initio, meaning it was invalid from the start of any action taken by the excluded Party,

28. In addition, MyCorporation harms the public interest by surrendering rights of privacy and copyright on behalf of their customers without their customers' express consent. The Plaintiffs are bound to the rules governing the legal profession and USPTO, and that those rules are designed to protect consumers. If it in fact achieves what it sets out to disclaim, MyCorporation.com's disclaimer (**Exhibit I, Section 1**) and privacy policy (**Exhibit I, Section 3**) demonstrate that there is some merit to the argument that allowing *only* licensed attorneys to sign on behalf of clients benefits consumers by guaranteeing protections built into the legal profession.

29. The TMExpress.com website includes disclaimers:

30. "MyCorporation is a Document Filing Service and CANNOT provide you with legal or financial advice." (**Exhibit I, Section 1**).

31. "It is presented with the understanding that MyCorporation is not engaged in rendering legal, accounting or other professional services." (**Exhibit I, Section 1**).

32. "This Site Is Not A Substitute For Legal Counsel..." (**Exhibit I, Section 3**).

33. "The materials, information and links posted on the Site are provided for public informational purposes only, and do not constitute individualized legal

<https://www.uspto.gov/trademark/trademark-updates-and-announcements/applicants-and-registrants-represented-excluded>, last checked January 6, 2018.

1 advice.” **(Exhibit I, Section 3).**

2
3 34. “The information on the Site is only provided with the understanding that
4 MyCorporation and its affiliates are not engaged in rendering legal or other
5 professional services.” **(Exhibit I, Section 3).**
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7 35. “This information is not a substitute for the advice of a competent legal or
8 other professional.” **(Exhibit I, Section 3).**
9

10 36. “When using our Services, you will be acting as your own attorney.”
11 **(Exhibit I, Section 3).**
12

13 37. “By providing you with this service, MyCorporation, its advisors, agents,
14 representatives, and employees are not rendering any legal or otherwise
15 professional advice or service, and no representations or warranties, express or
16 implied, are given regarding the legal or other consequences resulting from the
17 use of our Services, including but not limited to information, content and/or
18 forms.” **(Exhibit I, Section 3).**
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21 38. “MyCorporation, its advisors, agents, representatives, and employees are
22 not engaged in the practice of law and cannot provide you with legal advice.”
23 **(Exhibit I, Section 3).**
24

25 39. “Although MyCorporation expends great efforts and respects the
26 confidential nature of the information you are submitting to us, NO SPECIAL
27 RELATIONSHIP or privilege exists between MyCorporation and you, including
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1 but not limited to any Attorney-Client relationship that might exist had you
2 consulted with a licensed attorney.” (**Exhibit I, Section 3**).

3
4 40. By renouncing the attorney-client relationship and purporting to provide
5 legal information rather than legal advice, MyCorporation.com sidesteps
6 professional responsibilities governing the legal profession and avoids
7 professional malpractice liability.
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10 41. The Plaintiffs emphasize that MyCorporation.com avoids the
11 responsibilities of law practice by characterizing its services as “self-help” for
12 pro se litigants and maintaining that the website cannot substitute for an
13 attorney, without regard to the USPTO’s definitions of practice of Law before
14 the USPTO. MyCorporation.com’s employees are trained to sign U.S.
15 trademark applications on behalf of applicants and waive their rights to privacy.
16 Despite this, if taken at face value, MyCorporation.com’s disclaimer and privacy
17 policy allow it to operate free from the confines of ethical rules enforceable upon
18 attorneys.
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22 42. Plaintiffs further argue that by falling outside the existing regulatory
23 space for legal services—where regulations are designed by and applied to
24 licensed lawyers—MyCorporation.com Entities deny consumers redress that
25 they would otherwise have by instead retaining a law firm.
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27 43. In addition, communications with the MyCorporation.com’s website are
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1 protected only by the company's Privacy Policy, not the attorney-client privilege
2 or work product doctrine of Plaintiff LegalForce RAPC Worldwide.
3 MyCorporation.com has no duty of confidentiality, which would otherwise
4 prevent an attorney from revealing information relating to the representation.
5 Under the existing regulatory structure, MyCorporation.com also operates
6 beyond the reach of comparable disciplinary authorities for signing documents
7 and waiving customer rights on USPTO trademark filing forms.
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11 44. Upon reason and belief, deceptive advertising is another particularly
12 relevant problem for many customers using MyCorporation.com. Plaintiffs
13 argue that if MyCorporation.com were a law firm, its practices would be
14 disciplined by potential violations for communicating false or misleading
15 information about its signature policies with respect to U.S. trademarks.
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18 45. Moreover, Plaintiffs point out that MyCorporation.com limits its own
19 liability for problems arising from its signature on U.S. trademarks on behalf of
20 customers in ways impermissible for practicing lawyers. By operating outside
21 the professional rules, MyCorporation.com bypasses the duties of competence
22 and diligence required of all lawyers practicing law—duties which, if violated,
23 could give rise to malpractice claims.
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26 46. A comprehensive liability limitation clause requires that customers hold
27 MyCorporation.com harmless for any "damages for loss of profits, business
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1 interruption, costs of procurement of substitute goods or services or for any
 2 claim against you by any other party, or other pecuniary loss”. (**Exhibit I,**
 3 **Section 3**). Without a lawyer to fall back on, customers relying on
 4 MyCorporation.com may sometimes fail to comply with jurisdiction-specific
 5 requirements, resulting in an increase of reliance on lawyers conducting
 6 post-mortem fixes to remedy problems caused by signatures by MyCorporation
 7 on behalf of their customers. Though the disclaimer is not guaranteed to absolve
 8 MyCorporation.com of all liability, it makes it more difficult for clients to avoid
 9 shouldering liability for costly errors in legal documentation after
 10 MyCorporation signs USPTO forms on behalf of its customers.

11 **ETHICS RULES RELEVANT TO ALL CLAIMS**

12 **I. APPLICABLE RULES AND REGULATIONS ON THE PRACTICE OF** 13 **LAW BEFORE THE USPTO.**

14 **USPTO RULES**

15 **47. 37 CFR 11.18(a) - Personal Signature on each piece of**
 16 **correspondence filed at the USPTO.** (a) For all documents filed in the Office
 17 in patent, trademark, and other non-patent matters, and all documents filed with
 18 a hearing officer in a disciplinary proceeding, except for correspondence that is
 19 required to be signed by the applicant or party, each piece of correspondence
 20 filed by a practitioner in the Office must bear a signature, personally signed or
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1 inserted by such practitioner, in compliance with § 1.4(d) or § 2.193(a) of this
2 chapter. **(Exhibit A).**

3
4 **48. 37 CFR 11.18(b)(1) - Certification by practitioner or non-practitioner**
5 **based on own knowledge and believed to be true, and penalty for false,**
6 **fictitious, or fraudulent statement or representations.** (b) By presenting to the
7 Office or hearing officer in a disciplinary proceeding (whether by signing, filing,
8 submitting, or later advocating) any paper, the party presenting such paper,
9 whether a practitioner or non-practitioner, is certifying that (1) All statements
10 made therein of the party's own knowledge are true, all statements made therein
11 on information and belief are believed to be true, and all statements made therein
12 are made with the knowledge that whoever, in any matter within the jurisdiction
13 of the Office, knowingly and willfully falsifies, conceals, or covers up by any
14 trick, scheme, or device a material fact, or knowingly and willfully makes any
15 false, fictitious, or fraudulent statements or representations, or knowingly and
16 willfully makes or uses any false writing or document knowing the same to
17 contain any false, fictitious, or fraudulent statement or entry, shall be subject to
18 the penalties set forth under 18 U.S.C. 1001 and any other applicable criminal
19 statute, and violations of the provisions of this section may jeopardize the
20 probative value of the paper. **(Exhibit A).**

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22 **49. 37 CFR 11.18(b)(2) - Duty to verify that adequate evidentiary**
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1 **support.** To the best of the party's knowledge, information and belief, formed
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3 after an inquiry reasonable under the circumstances, (i) The paper is not being
4 presented for any improper purpose, such as to harass someone or to cause
5 unnecessary delay or needless increase in the cost of any proceeding before the
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7 Office; (ii) The other legal contentions therein are warranted by existing law or
8 by a nonfrivolous argument for the extension, modification, or reversal of
9
10 existing law or the establishment of new law; (iii) The allegations and other
11 factual contentions have evidentiary support or, if specifically so identified, are
12 likely to have evidentiary support after a reasonable opportunity for further
13 investigation or discovery; and (iv) The denials of factual contentions are
14 warranted on the evidence, or if specifically so identified, are reasonably based
15 on a lack of information or belief. **(Exhibit A).**
16

17
18 **50. 37 CFR 11.18(b)(2) - Sanctions and disciplinary action by USPTO for**
19 **failure to personally verify after inquiry reasonable under the**
20 **circumstances.** (c) Violations of any of paragraphs (b)(2)(i) through (iv) of this
21 section are, after notice and reasonable opportunity to respond, subject to such
22 sanctions or actions as deemed appropriate by the USPTO Director, which may
23 include, but are not limited to, any combination of -(1) Striking the offending
24 paper; (2) Referring a practitioner's conduct to the Director of Enrollment and
25 Discipline for appropriate action; (3) Precluding a party or practitioner from
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submitting a paper, or presenting or contesting an issue; (4) Affecting the weight given to the offending paper; or (5) Terminating the proceedings in the Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. **(Exhibit A).**

51.37 CFR §11.503 – Duty to supervise non-lawyers. With respect to a non-practitioner assistant employed or retained by or associated with a practitioner: (b) A practitioner having direct supervisory authority over the non-practitioner assistant shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the practitioner; and (c) A practitioner shall be responsible for conduct of such a person that would be a violation of the USPTO Rules of Professional Conduct if engaged in by a practitioner if: (1) The practitioner orders or, with the knowledge of the specific conduct, ratifies the conduct involved. **(Exhibit B).**

52. 37 CFR §11.505 – Unauthorized Practice of Law. A practitioner shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so. **(Exhibit B).**

53. 37 CFR §11.107 – Conflict of interest. (a) Except as provided in paragraph (b) of this section, a practitioner shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if: (1) The representation of one client will be directly adverse to

another client; or (2) There is a significant risk that the representation of one or more clients will be materially limited by the practitioner's responsibilities to another client, a former client or a third person or by a personal interest of the practitioner. **(Exhibit B).**

54. **37 CFR §11.115 - IOLTA trust account.** A practitioner shall hold property of clients or third persons that is in a practitioner's possession in connection with a representation separate from the practitioner's own property. Funds shall be kept in a separate account maintained in the state where the practitioner's office is situated, or elsewhere with the consent of the client or third person. **(Exhibit B).**

55. **37 CFR §11.118(b)** – Even when no client-practitioner relationship ensues, a practitioner who has had discussions with the prospective client shall not use or reveal information learned in the consultation, except as § 11.109 would permit with respect to information of a former client. **(Exhibit B).**

56. There are other counterpart state court rules in before the California State Bar, not reprinted here, with largely similar restrictions.

I. USPTO'S DEFINITION OF UNAUTHORIZED PRACTICE OF LAW FOR TRADEMARK MATTERS BEFORE THE USPTO.

57. Consulting with or giving advice to an applicant or registrant in contemplation of filing a trademark application or application-related document.

1 **(Exhibit L).**

2
3 58. Preparing or prosecuting an application, response, post-registration
4 maintenance document, or other related document. **(Exhibit L).**

5 **II. USPTO'S DEFINITION OF LEGAL ADVICE FOR TRADEMARK**
6
7 **MATTERS BEFORE THE USPTO.**

8 59. Conducting pre-filing searches for potentially conflicting trademarks.
9 **(Exhibit M).**

10 60. Analyzing or pre-approving documents before filing. **(Exhibit M).**

11 61. Advising applicants on substantive examination issues, such as the
12 acceptability of specimens and classification of goods and services. **(Exhibit**
13 **M).**

14 **CALIFORNIA CIVIL CODE**

15 62. **California Business and Profession §6125 – Unlawful Practice of**
16 **Law.** No person shall practice law in California unless the person is an active
17 member of the State Bar. **(Exhibit B).**

18 **IV. MYCORPORATION VIOLATES UNAUTHORIZED PRACTICE OF**
19 **LAW RULES OF THE USPTO BY SIGNING DOCUMENTS USING**
20 **NON-ATTORNEYS.**

21 63. Plaintiffs requested the filing of a trademark application through the
22 MyCorporation.com website. Email addresses of raj@legalforcelaw.com for
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1 customer RAJ ABHYANKER was used. (**Exhibit N**).

2
3 64. A real trademark related to business of Plaintiffs was used for was
4 applied for federal intent-to-use registration through the MyCorporation website.
5 PACERALERT is trade name of a new public docket alert system for federal
6 litigation that Plaintiff Raj Abhyanker intends to use in commerce. The
7 Plaintiffs paid \$149 through the MyCorporation website. (**Exhibit O**).

8
9 65. For the prospective trademark, PACERALERT, MyCorporation did not
10 provide legal advice to the Plaintiff in that they did not assist with the
11 description of goods and service or class selection. Since the Plaintiff did not
12 request it, the “trademark search” phase was not performed for the
13 PACERALERT trademark. Upon reason and belief, this search is procedurally
14 performed by non-lawyer staff without review from a licensed attorneys in
15 violation of the USPTO’s practice of law definition in **Exhibits A and B**.
16 MyCorporation’s non-attorney representative suggested that the USPTO would
17 select classification and call the Plaintiff if there were any problems with the
18 description. (compare **Exhibit O** v. **Exhibit Q**).

19
20 66. During the workflow, MyCorporation asked the Plaintiff Raj Abhyanker
21 to sign a signature consent electronically which reads :

22
23 /RAJ ABHYANKER/
24

25
26 I acknowledge that I have read and agree to be bound by the
27 MyCorporation® Terms of Use Agreement. I specifically acknowledge
28

1 that neither MyCorporation®, nor any of its employees or agents have
2 provided me with any legal services or legal advice. I also authorize
3 MyCorporation® to affix my electronic signature to documents, where
4 applicable. Further, if ordered, I authorize MyCorporation® to
5 automatically bill my credit card each year for Registered Agent
6 Service, MyIncGuard®, Annual Report Service or MaintainMyBiz®
7 unless written notification of cancellation and proof of resignation is
8 provided in the time frame stated by MyCorporation®. I acknowledge
9 that once documents are successfully submitted to the state, if
10 applicable, I am not entitled to a refund of any state/government filing
11 fees, MyCorporation® service fees, or shipping & handling fees.
12
13 **(Exhibit O).**

14 67. However this disclaimer is not on the USPTO website, it is found on the
15 workflow of the MyCorporation trademark service and on the follow up receipt
16 **(Exhibit O)**. Most importantly, the signature consent portion of this disclaimer
17 is generic, and does not provide any permission to MyCorporation to disclaim
18 privacy rights on behalf a trademark applicant before the USPTO, does not
19 provide any kind of representations by any customer of MyCorporation that
20 there is any bonafide intent to use a trademark in commerce, and that the
21 trademark filing request is brought in good faith. Despite this, MyCorporation's
22 non-attorney staff signed the PACERALERT trademark directly on the USPTO
23 website using a fraudulent signature of Plaintiff Raj Abhyanker by fraudulently
24 signing “/raj abhyanker/” on the USPTO trademark filing form with the
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1 fraudulent representation that the signatory's name is "Raj Abhyanker".
2
3 **(Exhibit Q).**

4 68. What is also troubling about this fraudulent signature is that
5 MyCorporation did not even check with Plaintiff Raj Abhyanker any of the
6 warranties and representations its non-lawyers "check clicked off" with respect
7 to this filing when fraudulently signing "/raj abhyanker/" on the USPTO
8 trademark filing form with the fraudulent representation that the signatory's
9 name is "Raj Abhyanker". **(Exhibit Q).** Specifically, MyCorporation's
10 non-lawyer staff fraudulently represented to the government without checking
11 with the Plaintiff Raj Abhyanker that:
12
13
14

15 69. The signatory believes that the applicant is the owner of the
16 trademark/service mark sought to be registered; **(Exhibit Q).**
17

18 70. The mark is in use in commerce on or in connection with the
19 goods/services in the application; **(Exhibit Q).**
20

21 71. The specimen(s) shows the mark as used on or in connection with the
22 goods/services in the application; **(Exhibit Q).**

23 72. To the best of the signatory's knowledge and belief, the facts recited in
24 the application are accurate. **(Exhibit Q).**
25

26 73. To the best of the signatory's knowledge and belief, no other persons,
27 except, if applicable, concurrent users, have the right to use the mark in
28

1 commerce, either in the identical form or in such near resemblance as to be
2 likely, when used on or in connection with the goods/services of such other
3 persons, to cause confusion or mistake, or to deceive. **(Exhibit Q)**.

4
5 74. To the best of the signatory's knowledge, information, and belief, formed
6 after an inquiry reasonable under the circumstances, the allegations and other
7 factual contentions made above have evidentiary support. **(Exhibit Q)**.

8
9 75. The signatory being warned that willful false statements and the like are
10 punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that
11 such willful false statements and the like may jeopardize the validity of the
12 application or submission or any registration resulting therefrom, declares that
13 all statements made of his/her own knowledge are true and all statements made
14 on information and belief are believed to be true. **(Exhibit Q)**.

15
16 76. Upon reason and belief, MyCorporation has signed off on these rights not
17 just for the Plaintiff's PACERALERT trademark, but for thousands of
18 trademarks per year, each year, for more than ten (10) years. Upon reason and
19 belief, MyCorporation practiced law when it signed the USPTO form to proceed
20 with the filing on behalf of Raj Abhyanker. MyCorporation then proceeded to
21 use the Plaintiff Raj Abhyanker's credit card to charge \$275 in government fees
22 in advance of filing. **(Exhibit P, and Exhibit R)**.

23
24 77. Moreover, MyCorporation unilaterally waived Plaintiffs Raj Abhyanker's
25
26
27
28

1 right to privacy with respect to the PACERALERT trademark by having
2 non-attorney staff sign off rights while paying government fees by check box
3 clicking off the following on the USPTO government fee form shown in **Exhibit**
4 **G** including : (1) Waiving Plaintiffs Raj Abhyanker's right to cancel the filing or
5 refund the government fee paid on their behalf; (2) Waiving right to
6 confidentiality of name, phone number, e-mail address, and street address of
7 Plaintiff Raj Abhyanker with respect to their trademarks; and (3) Representing
8 to the federal government, without checking with Plaintiff Raj Abhyanker has
9 the authority to grant, and is granting, the USPTO permission to make the
10 information available in its online database and in copies of the application or
11 registration record. (**Exhibit G**).

12 78. Upon reason and belief MyCorporation enters the customer's information
13 directly into the USPTO website and does not request a link from the USPTO to
14 the signature form using an internal MyCorporation non-attorney staff's email
15 ID (**Exhibit C**) in order to covertly avoid scrutiny from the State Bar of
16 California or the USPTO. **MyCorporation does not share this USPTO link to**
17 **the customer to sign**, and accordingly did not share it with Plaintiff Abhyanker
18 for the PACERALERT trademark application.

19 79. MyCorporation signs the USPTO link approving the trademark using
20 non-attorney staff based on the partial customer's approval on the
21
22
23
24
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27
28

1 MyCorporation.com website (**Exhibit O**), upon reason and belief. The reason
2 that the approval is partial is because the MyCorporation.com website does not
3 ask the customer to waive their privacy protections. **MyCorporation**
4 **unilaterally waives privacy protections and underlying copyright**
5 **publication rights to the USPTO.** Specifically, MyCorporation's non-lawyer
6 staff again go to a different USPTO link emailed to MyCorporation by the
7 USPTO which expressly waives each customer's right to privacy and has
8 MyCorporation attest that MyCorporation has the authority to grant the USPTO
9 permission to make information submitted available on its online database
10 regardless of the underlying copyrights (**Exhibit G**).
11
12
13
14

15 80. Moreover, upon reason and belief, MyCorporation maintains no client
16 trust account (IOLTA account) for trademark matters, uses non-lawyer assistants
17 to evaluate specimens of use in commerce for authenticity, and performs no
18 conflict checks against other customers.
19

20 81. In contrast, as a law firm, Plaintiff LegalForce RAPC Worldwide and its
21 licensed attorneys must conduct conflict checks with existing clients prior to
22 taking on representation of prospective clients.⁶ It must place client funds in an
23
24
25
26

27 ⁶ **37 CFR §11.107 – Conflict of interest.** (a) Except as provided in paragraph (b) of this section, a practitioner
28 shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of
interest exists if: (1) The representation of one client will be directly adverse to another client; or (2) There is a
significant risk that the representation of one or more clients will be materially limited by the practitioner's
responsibilities to another client, a former client or a third person or by a personal interest of the practitioner.

1 IOLTA trust account prior to work being started.⁷ It must hire U.S. licensed
 2 attorneys to counsel clients on trademark classification selection, modifying
 3 description of goods and services, reviewing specimens provided by its clients
 4 for completeness and applicability to the selected classification, and review for
 5 veracity before having attorneys themselves personally sign off on documents.⁸
 6

8 82. If Plaintiff LegalForce RAPC Worldwide and its licensed attorneys were
 9 to adopt a similar model as MyCorporation, it is very likely that the firm and its
 10 licensed attorneys would be disbarred and/or excluded from practicing law by
 11 the USPTO, any state in which they are licensed by a State Bar.
 12

13 83. This is a real threat. Recently, Matthew Swyers (“Swyers”), a former
 14 USPTO trademark examining attorney in private practice and founder of The
 15 Trademark Company, was excluded for practice by the USPTO for the conduct
 16 similar to MyCorporation’s (**Exhibit D**). Despite this, the USPTO is unable to
 17 stop Swyers from filing trademarks before the USPTO and he continues to file
 18 trademarks as described in United States District Court of Northern District of
 19 California - San Jose Division (“5:17-cv-7318”) filed on December 28, 2017. In
 20 addition, another attorney Tracy W. Druce (“Druce”) was suspended for failure
 21
 22
 23
 24

25 ⁷ **37 CFR §11.115 - IOLTA trust account.** A practitioner shall hold property of clients or third persons that is in
 26 a practitioner's possession in connection with a representation separate from the practitioner's own property.
 27 Funds shall be kept in a separate account maintained in the state where the practitioner's office is situated, or
 elsewhere with the consent of the client or third person.

28 ⁸ **California Business and Profession §6125 – Unlawful Practice of Law.** No person shall practice law in
 California unless the person is an active member of the State Bar. **37 CFR §11.505 – Unauthorized Practice of
 Law.** A practitioner shall not practice law in a jurisdiction in violation of the regulation of the legal profession in
 that jurisdiction, or assist another in doing so.

1 to supervise assistants even though the lawyer did not know of the conduct of his
2 assistants signing documents on his behalf (**Exhibit E**). Moreover, the USPTO
3 also excluded from practice Leonard Tachner (“Tachner”), a suspended attorney
4 whose corporation prepared and filed trademark applications while he was
5 suspended on the grounds of unauthorized practice of law. (**Exhibit F**).
6
7

8 84. Unlike Swyers, Druce, and Tachner, upon reason and belief, the USPTO
9 and State Bars have taken no similar action against MyCorporation. This double
10 standard between attorneys and non-attorneys is a great injustice that harms both
11 attorneys and the public at large. Attorneys who have spent years going through
12 law school, taking a difficult bar exam, maintaining an IOLTA trust account, and
13 performing conflict checks **cannot** effectively compete against non-law firm
14 competitors like MyCorporation on an even playing field. It also lowers the
15 standard of service to the public because MyCorporation customers rely on the
16 legal advice given by non-attorneys. For these reasons, an injunction and
17 damages false advertising, unfair competition, malpractice, and other causes of
18 action are sought.
19
20
21
22

23 85. For the above reasons, Plaintiffs submit that MyCorporation Entities
24 violate the at least following rules:
25

26 **86.37 CFR 11.18(a) - Personal Signature on each piece of**
27 **correspondence filed at the USPTO.** Specifically, MyCorporation Entities
28

1 violate this rule because all documents filed in the USPTO in trademark matters,
2
3 except for correspondence that is required to be signed by the applicant or party
4 do not must bear a signature, **personally** signed or inserted by a licensed
5 attorney, in compliance with § 1.4(d) or § 2.193(a) of this chapter. (**Exhibit A**).
6

7 **87. 37 CFR 11.18(b)(1) - Certification by practitioner or non-practitioner**
8 **based on own knowledge and believed to be true, and penalty for false,**
9 **fictitious, or fraudulent statement or representations.** Specifically,
10 MyCorporation Entities violate this rule by signing, filing and submitting U.S.
11 trademark applications without verification, that their fraudulent signatures by
12 non-attorneys represent that (1) All statements made therein of the party's own
13 knowledge are true, all statements made therein on information and belief are
14 believed to be true. (**Exhibit A**).
15
16
17

18 **88. 37 CFR 11.18(b)(2) - Duty to verify that adequate evidentiary**
19 **support.** Specifically, MyCorporation Entities violate this rule because it is not
20 to the best of the non-attorney signer's knowledge, information and belief,
21 formed after an inquiry reasonable under the circumstances that (i) The USPTO
22 trademark application is not being presented for any improper purpose, such as
23 to harass someone or to cause unnecessary delay or needless increase in the cost
24 of any proceeding before the Office; (ii) The other legal contentions therein are
25 warranted by existing law or by a nonfrivolous argument for the extension,
26
27
28

1 modification, or reversal of existing law or the establishment of new law; (iii)
2
3 The allegations and other factual contentions have evidentiary support or, if
4 specifically so identified, are likely to have evidentiary support after a
5 reasonable opportunity for further investigation or discovery; and (iv) The
6 denials of factual contentions are warranted on the evidence, or if specifically so
7 identified, are reasonably based on a lack of information or belief. (**Exhibit A**).
8

9
10 89. **37 CFR §11.503 – Duty to supervise non-lawyers.** Specifically,
11 attorney Sweeney violates this rule with respect to a non-practitioner assistant
12 employed or retained by or associated Sweeney : (b) Sweeney did not make
13 reasonable efforts to ensure that the non-attorney’s conduct is compatible with
14 the professional obligations of Sweeney as a member of the California Bar; and
15 therefore Sweeney should be (c) responsible for conduct of such a person that
16 would be a violation of the USPTO Rules of Professional Conduct if engaged in
17 by Sweeney because (1) Sweeney orders or, with the knowledge of the specific
18 conduct, ratifies the conduct involved, upon reason and belief. (**Exhibit B**).
19
20

21
22 90. **37 CFR §11.505 – Unauthorized Practice of Law.** Specifically,
23 attorney Sweeney violates this rule because she assists non-attorneys in violating
24 rules with respect to the practice law. (**Exhibit B**).
25

26 91. There are other counterpart state court rules in before the California State
27 Bar, not reprinted here, with largely similar restrictions.
28

V. MYCORPORATION' MISLEADING GOOGLE, BING, AND OTHER
ONLINE ADVERTISING IS DAMAGING TO PLAINTIFFS' GOODWILL
AND MISLEADING TO THE PUBLIC WITH FALSE COMPARISONS TO
ATTORNEY LED SERVICES, AS SUCH ACTIONS CAUSING
IRREPARABLE HARM TO PLAINTIFFS.

92. Plaintiff LegalForce RAPC Worldwide and Defendant MyCorporation are purchasers of online advertising including on Google and Bing per month for “how to register a trademark” (**Exhibit I, Section 4**) and “trademark application in the us” (**Exhibit I, Section 4**) related search terms.

93. Moreover the advertising copy associated with these keywords is equally deceptive. MyCorporation uses terms such as “File Your Trademark Today-Protect your logo and brand” and ” and “Register Your Trademark” (**Exhibit I, Section 5**) when in fact MyCorporation recklessly jeopardizes these rights on behalf of all its applicants by warranting statements to the federal government that it did not have an attorney verify (**Exhibit Q**). To effectuate the service that is representing, Mycorporation must participate in the practice of law, as defined by the USPTO.

94. Upon reason and belief, MyCorporation's non-attorney trademark filing service has threatened, and continues to threaten, Plaintiff LegalForce RAPC's business directly by competitively bidding against Plaintiff LegalForce RAPC

1 Worldwide on Google and Bing for the keywords during at least the last 5 years
2 through deceptive advertising which are predicated on the unauthorized practice
3 of law. (**Exhibit Exhibits A, B, L and M**).

4
5 95. MyCorporation is not a law firm or authorized to practice law in any
6 state. Moreover, upon reason and belief, MyCorporation is not a registered or
7 bonded legal document assistant under California Business and Professions
8 Code, sections §6400 et seq.

9
10
11 96. Despite not being a law firm and despite not hiring any attorneys
12 representing external clients, MyCorporation purchases advertisements
13 whenever consumers search terms related to the practice of trademark law
14 including for “how to register a trademark” (**Exhibit I, Section 4**) and
15 “trademark application in the us” (**Exhibit I, Section 4**) related search terms.
16 The advertising copy in the resulting advertisements is highly misleading,
17 leading a consumer to believe that he or she will be competently assisted with
18 preparing and filing a trademark.

19
20
21 97. In contrast, rules for mandatory conflict checks, attorney client privilege,
22 and storing client funds in IOLTA accounts have been adopted by every State
23 Bar, for the explicit purpose of protecting clients. MyCorporation boasts about
24 eschewing these long standing client protections. While not having power of
25 attorney, not holding attorney client privilege, and not conducting conflict
26
27
28

1 checks, yet still providing legal advice, MyCorporation's advertising copy is
 2 explicitly designed to wrongfully imply that avoiding conflict checks is a benefit
 3 to clients.
 4

5 6 CAUSES OF ACTION

7 8 **FIRST CLAIM FOR RELIEF** 9 **DECLARATORY JUDGMENT** 10 **(Against all Defendants and DOES 1-50)**

11 98. Plaintiffs incorporate herein by reference paragraphs **1-97** above.

12 99. An actual controversy has arisen and now exists between Plaintiffs and
 13 Defendants regarding MyCorporation Entities' unfair business practices and
 14 corporate ownership structure, false advertising, professional negligence, breach
 15 of fiduciary duty, and unauthorized practice of law.

16 100. An actual controversy has arisen and now exists between Plaintiffs
 17 and Defendant USPTO regarding USPTO's rules disallowing Plaintiffs to sign
 18 trademarks using non-attorneys in the same manner as MyCorporation Entities.
 19 Numerous articles have been published by leading law firms and ethics scholars
 20 on the need for personal signature on government forms (**Exhibits S to V**).
 21

22 101. Plaintiffs have sought and received ethics counsel from highly
 23 respected ethics counsel informing them they should have human attorney or the
 24 clients directly sign off on trademark declarations and filing forms. Moreover,
 25 outside counsel has informed Plaintiffs that the State Bar of California and the
 26
 27
 28

1 USPTO will not likely to provide guidance in advance of changing operating
2 models.
3

4 102. In the alternate, an actual controversy has arisen and now exists
5 between Plaintiffs and Defendant USPTO regarding USPTO's failure to prevent
6 MyCorporation Entities from operating its business for the purpose of signing
7 trademark applications before the USPTO.
8

9 103. An actual controversy has arisen and now exists between Plaintiffs
10 and the State Bar of California regarding the State Bar of California's rules
11 disallowing Plaintiffs to sign USPTO trademark filing services using
12 non-attorney staff in the same manner as MyCorporation Entities. In the
13 alternate, an actual controversy has arisen and now exists between Plaintiffs and
14 the State Bar of California regarding the State Bar of California's failure to
15 prevent MyCorporation Entities from operating its business for the purpose of
16 engaging in the unauthorized practice of law with respect to U.S. trademark
17 applications before the USPTO.
18
19
20
21

22 104. As a California licensed law firm and a California licensed attorney,
23 Plaintiffs LegalForce RAPC Worldwide and Raj Abhyanker have built robust
24 practices to conduct conflict checks for client trademark matters, have had to
25 maintain legal malpractice insurance, and have had to employ U.S. licensed
26 attorneys to review and sign off on trademark matters filed before the United
27
28

1 States Patent & Trademark Office to avoid unauthorized practice of law
2 challenges to their business.
3

4 105. By not operating as a law firm, upon reason and belief,
5 MyCorporation Entities conducts no conflict checks for client trademark
6 matters, has not had to maintain legal malpractice insurance, and has not had to
7 employ U.S. licensed attorneys to review and sign off on trademark matters filed
8 before the USPTO to avoid unauthorized practice of law challenges to its
9 business for its non-attorney trademark filing service.
10
11

12 106. Being substantially owned by attorney Raj Abhyanker, Plaintiff
13 LegalForce, Inc. has been unable to adopt the model of MyCorporation Entities
14 for its non-attorney trademark filing service to sign off on trademark
15 applications before the United States Patent & Trademark Office and raise
16 external capital without exposing itself to unauthorized practice of law
17 challenges to its business and Chief Executive Officer Raj Abhyanker.
18
19

20 107. Upon reason and belief, the State Bar of California and the USPTO
21 may claim that they have not taken any action against MyCorporation Entities
22 because MyCorporation operates covertly by not directly requesting signature
23 forms on USPTO documents to forward to its customers (does not use **Exhibit**
24 **C**).
25
26

27 108. Upon reason and belief, the State Bar of California has failed to
28

1 discipline and/or appropriately regulate the conduct and practice of attorney
2 Deborah Sweeney, Owner and CEO of MyCorporation, who is an active
3 member of the California Bar.
4

5 109. Plaintiffs seek declaratory judgment from this Court because
6 MyCorporation Entities continues to threaten Plaintiffs by competing with them
7 for trademark filing online keywords while having lower cost non-attorneys do
8 tasks required by attorneys. As a result, Plaintiffs have no recourse to compete
9 without this Court providing clarity via this declaratory judgment action and
10 instant causes of action. Plaintiffs have not been able to compete on an equal
11 playing field with MyCorporation Entities with its non-attorney trademark filing
12 service and are being denied equal protection in practicing their profession and
13 for this reason seek this declaratory judgment.
14
15
16
17

18 110. Accordingly, Plaintiffs seek a declaratory judgment from this Court,
19 declaring:
20

21 A. A licensed attorney is permitted to employ non-lawyer assistants to
22 sign trademark declarations before the USPTO for clients, sign USPTO
23 trademark applications sought to be filed with the USPTO by clients, and have
24 non-attorneys sign off on privacy rights, surrender copyright interests to the
25 USPTO, and pay government fees on behalf of clients who are represented by
26 the licensed attorney when the clients expressly consent on an engagement letter
27
28

1 with the licensed lawyer.

2
3 B. A licensed law firm is permitted to employ non-lawyer assistants to
4 sign trademark declarations before the USPTO for clients, sign USPTO
5 trademark applications sought to be filed with the USPTO by clients, and have
6 non-attorneys sign off on privacy rights, surrender copyright interests to the
7 USPTO, and pay government fees on behalf of clients who are represented by a
8 lawyer of the law firm when the clients expressly consent on a website of the
9 law firm or through an engagement letter with the licensed law firm.
10
11

12 C. A legal technology C corporation organized in any state within the
13 United States substantially owned by one or more California and USPTO
14 licensed attorneys is permitted to employ non-lawyer assistants to sign
15 trademark declarations before the USPTO for customers, sign USPTO trademark
16 applications sought to be filed with the USPTO by customers, and have
17 non-attorneys sign off on privacy rights, surrender copyright interests to the
18 USPTO, and pay government fees on behalf of customers who are not
19 represented by a lawyer when the customers expressly consent on a website of
20 the legal technology C corporation.
21
22
23
24

25 **SECOND CLAIM FOR RELIEF**
26 **FEDERAL FALSE & MISLEADING ADVERTISING AND UNFAIR**
27 **COMPETITION IN VIOLATION OF THE FEDERAL TRADE**
28 **COMMISSION ACT, 15 U.S.C. § 45, 15 U.S.C. § 52, 15 U.S.C. § 53**
(Against MyCorporation Entities and DOES 1-50)

1 111. Plaintiffs incorporate herein by reference paragraphs **1-110** above.

2
3 112. The Federal Trade Commission Act prohibits any unfair methods of
4 competition in or affecting commerce, and unfair or deceptive acts or practices
5 in or affecting commerce, and declares such acts or practices unlawful.
6

7 113. MyCorporation is not a law firm in the United States and is not
8 authorized to practice law in any state. MyCorporation is not a registered or
9 bonded legal document assistant under California Business and Professions
10 Code, sections §6400 et seq.
11

12 114. The Federal Trade Commission Act prohibits false and misleading
13 advertising and prohibits advertisers like MyCorporation from making any
14 claim, and directly or indirectly, in words or in substance, qualified or
15 unqualified, that contain express or implied falsehoods.
16
17

18 115. MyCorporation has threatened Plaintiff LegalForce RAPC
19 Worldwide's business directly by misleading consumers and unfairly competing
20 with Plaintiffs for numerous keywords related to U.S. trademark filing services
21 **(Exhibit I, Section 4)**. The conduct is unfair and unethical because
22 MyCorporation makes it seem that MyCorporation can effectively prepare and
23 file valid U.S. trademarks by employing non-attorneys to sign U.S. trademark
24 applications on behalf of customers.
25
26

27 116. MyCorporation's false and misleading advertisements have deceived a
28

1 substantial segment of the audience exposed to it, or have the capacity for such
2 deception, and have influenced, or are likely to influence, consumer purchasing
3 decisions.
4

5 117. MyCorporation sells, offers for sale, distributes, and/or advertises
6 goods and services to consumers that directly compete with Plaintiffs' sales of
7 their own services and products.
8

9 118. MyCorporation's conduct demonstrates an intentional, willful, and
10 malicious intent to deceive consumers and unfairly compete with Plaintiffs.
11

12 119. MyCorporation's false and misleading advertisements have caused
13 and, unless enjoined, will continue to cause immediate and irreparable harm to
14 Plaintiffs for which there is no adequate remedy at law. In addition, as a result
15 of MyCorporation's false and misleading advertisements, Plaintiffs have been
16 injured, including but not limited to, decline in sales and market share, loss of
17 goodwill, and additional losses and damages. Furthermore, MyCorporation has
18 been unjustly enriched at the expense of Plaintiffs as a consequence of
19 MyCorporation's false and misleading advertising. Accordingly, Plaintiffs are
20 entitled to injunctive relief and to recover actual damages, enhanced profits and
21 damages, costs, MyCorporation's profits, and reasonable attorneys' fees under
22 15 U.S.C. §§ 1114, 1116, and 1117.
23
24
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28

THIRD CLAIM FOR RELIEF
FEDERAL FALSE & MISLEADING ADVERTISING AND UNFAIR

COMPETITION IN VIOLATION OF §17200 *ET SEQ.* OF THE CALIFORNIA
BUSINESS AND PROFESSIONS CODE

(Against MyCorporation Entities and DOES 1-50)

120. Plaintiffs incorporate herein by reference paragraphs **1-119** above.

121. MyCorporation's false comparisons with Plaintiffs' attorney managed U.S. trademark service as being comparable to MyCorporation's non-attorney service through misleading advertising, as alleged above, constitute unfair competition in violation of Section §17200 *et seq.* of the California Business and Professions Code.

122. MyCorporation's non-attorney trademark document specialists unlawfully assist customers by fraudulently signing documents to be filed before the United States Patent & Trademark Office, and filing trademarks before the United States Patent & Trademark Office.

123. As a result of MyCorporation's wrongful acts, Plaintiffs have suffered and will continue to suffer loss of hundreds of thousands of dollars of income, profits and valuable business opportunities and if not preliminarily or permanently enjoined, MyCorporation will have unfairly derived and will continue to derive income, profits and business opportunities as a result of its wrongful acts.

124. Pursuant to California Business and Professions Code Section §17200

1 *et seq.*, Plaintiffs seek an order of this Court preliminarily and permanently
2 enjoining MyCorporation from continuing to engage in the unlawful, unfair and
3 fraudulent acts or practices set forth herein, as well as compensatory damages
4 and restitution.
5

6
7 **FOURTH CLAIM FOR RELIEF**

8 **CALIFORNIA FALSE & MISLEADING ADVERTISING IN VIOLATION OF**
9 **CAL. BUS. & PROF. CODE § 17500 *ET SEQ.* and § 17600 *ET SEQ.***
10 **(Against MyCorporation Entities and DOES 1-50)**

11 125. Plaintiffs incorporate herein by reference paragraphs **1-124** above.

12 126. MyCorporation's false comparisons with Plaintiffs' attorney managed
13 U.S. trademark service as being comparable to MyCorporation's non-attorney
14 service through misleading advertising, as alleged above, constitute unfair
15 competition in violation of Section §17200 *et seq.* of the California Business and
16 Professions Code.
17

18
19 127. Beginning on a date unknown to Plaintiffs but likely within at least the
20 eight years preceding the filing of the Complaint, MyCorporation, acting directly
21 or indirectly with the intent to induce members of the public to engage
22 MyCorporation's services and purchase MyCorporation's products, made or
23 caused to be made, in violation of Business and Professions Code Section
24 §17500, untrue or misleading statements in the state of California via its website,
25 that include, but are not limited to, the following:
26
27
28

1 128. MyCorporation is not a law firm in the United States and is not
2
3 authorized to practice law in any state. MyCorporation is not a registered or
4
5 bonded legal document assistant under California Business and Professions
6 Code, sections §6400 et seq.

7 129. MyCorporation has threatened Plaintiff LegalForce RAPC
8
9 Worldwide's business directly by misleading consumers searching Google and
10
11 Bing for U.S. trademark filing services to non-attorney trademark landing pages.
12
13 This creates unfair competition for Plaintiffs which file all trademarks of their
14
15 clients before the USPTO with representation by licensed attorneys at
16
17 LegalForce RAPC Worldwide's offices, in either California or Arizona. The
18
19 conduct is unfair and unethical because it misleads customers to selecting
20
21 MyCorporation's services instead of those of the Plaintiffs based on fraudulent
22
23 premises.

24 130. While using AdWords to trigger and disseminate the misleading
25
26 advertisements herein alleged, MyCorporation knew, or by the exercise of
27
28 reasonable care should have known, that the advertisements were untrue and
misleading and so acted in violation of Section §17500 of the Business and
Professions Code. MyCorporation expressly waives this confidentiality and
privacy rights unilaterally without customer consent when paying government
fees (**Exhibit G**).

1 131. MyCorporation's non-attorney trademark document specialists
2
3 unlawfully assist customers with fraudulently signing trademarks to be filed
4 before the USPTO, and filing trademarks before the USPTO.

5 132. MyCorporation has been unjustly enriched through its false and
6
7 misleading advertising.

8 133. Plaintiffs have lost business caused by the false and misleading
9
10 MyCorporation advertisements as a result of at least one customer refusing to do
11 business with Plaintiffs due to the fact that MyCorporation advertisements
12 falsely implying that MyCorporation offers trademark filing services with the
13 USPTO in an ethically compliant manner, upon reason and belief.

14 134. Unless restrained by this court, MyCorporation will continue with its
15
16 untrue and misleading advertising, as alleged above, in violation of Section
17 §17500 of the Business and Professions Code and in violation of Section §17509
18 of the California Business and Professions Code, thus, tending to render
19 judgment in the instant action ineffectual and will cause additional injury to
20 Plaintiffs for which Plaintiffs have no adequate remedy at law.

21 135. Pursuant to California Business and Professions Code Section §17500,
22
23 Plaintiffs seek an order of this Court preliminarily and permanently enjoining
24
25 MyCorporation from continuing to engage in the false and misleading
26 advertising set forth herein, as well as compensatory damages and restitution.
27
28

1 136. MyCorporation's business practices and acts, fully described above,
2
3 constitute an unlawful practice of law and create false and misleading
4 impressions on potential clients of Plaintiff LegalForce RAPC Worldwide.

5 137. MyCorporation's business model and acts, including but not limited to
6
7 its website and false and misleading advertising, constitute unfair practices,
8
9 intentionally aimed at getting ahead of any competitors with lawful business
10
11 conduct such as that of the Plaintiffs. The acts alleged herein continue to present
12
13 a threat to Plaintiffs and average consumers, especially the ones with limited
14
15 resources.

16 138. MyCorporation's acts were, and are, likely to deceive an average
17
18 consumer, and thus constitute unfair business practices as described herein.

19 139. MyCorporation has engaged in unlawful, unfair and fraudulent
20
21 business practices and damaged the public and Plaintiffs through the conduct
22
23 alleged herein.

24 140. Plaintiffs are informed, believe, and thereupon allege that
25
26 MyCorporation's conduct as described herein was, and is, unlawful, unfair
27
28 and/or fraudulent in violation of Section §17000 *et. sq.* of the California
Business and Professions Code and has the potential to cause, and has in fact
caused, confusion in the marketplace.

 141. Plaintiffs have been irreparably harmed and will continue to be

1 irreparably harmed as a result of MyCorporation's unlawful acts unless enjoined
2
3 by this Court.

4 142. The conduct herein complained of was extreme, outrageous,
5 surreptitious, and was inflicted on Plaintiffs in reckless disregard of Plaintiffs'
6 rights.
7

8 143. Plaintiffs are entitled to an injunction restraining MyCorporation, and
9 all persons acting in concert with them, from engaging in such further acts of
10 unfair competition, including:
11

12 i. Enjoining non-lawyer assistants of MyCorporation to sign trademark
13 applications sought to be filed with the USPTO directly to customers, sign
14 declarations on behalf of customers, waive privacy rights of customers, and
15 dedicate copyright interests to the USPTO on behalf of customers who are not
16 represented by a lawyer.
17

18
19 ii. Enjoining MyCorporation from purchasing misleading advertising related to
20 U.S. trademark filing services and related keywords for non-attorney trademark
21 filing services offered by MyCorporation with respect to U.S. trademark matters.
22

23 **FIFTH CLAIM FOR RELIEF**
24 **PROFESSIONAL NEGLIGENCE**
25 **(Against Sweeney and DOES 1-50)**

26 144. Plaintiffs incorporate herein by reference paragraphs **1-143** above.

27 145. MyCorporation is not a law firm in the United States and is not
28

1 authorized to practice law in any state.

2
3 146. In addition, upon reason and belief, Sweeney owed a duty to Plaintiff
4 Raj Abhyanker when MyCorporation.com collected more than \$149 in legal
5 service and government fees from Plaintiff Raj Abhyanker without depositing
6 the funds into an IOLTA trust account and conducting a conflict check against
7 existing customers and adverse parties for the PACERALERT trademark with
8 customers of MyCorporation Business Services, Inc.
9
10

11 147. Sweeney has breached her duty by purposefully engaging in the
12 unauthorized practice of law with respect to the signing of the PACERALERT
13 trademark on behalf of Plaintiff Raj Abhyanker using non-attorney staff while
14 falsely implying that no legal advice was to be received in the “non-attorney”
15 trademark filing service linked to a Google advertisements falsely implying that
16 competent trademark filing services will be provided.
17
18

19 148. Moreover, Sweeney breached her duty to Plaintiff Raj Abhyanker by
20 not supervising non-lawyer assistants who fraudulently signed a declaration,
21 waived privacy rights, and waived underlying copyrights in the federal
22 trademark application for PACERALERT.
23

24 149. In addition, Sweeney owed a duty to Plaintiff Raj Abhyanker to act at
25 all times in good faith and in Plaintiff Raj Abhyanker’s best interests, and had a
26 duty, among other things, to perform the services for which her corporate entity
27
28

1 MyCorporation was retained with reasonable care and skill to prepare and file
2 the PACERALERT trademark, to act in the Plaintiff Raj Abhyanker highest and
3 best interests at all times, and to not expose Plaintiff Raj Abhyanker to
4 unnecessary risk or peril. As a licensed practitioner, Sweeney knew or should
5 have known practices with respect to signing Declarations and documents before
6 the United States Patent & Trademark Office.⁹
7

8
9
10 150. By not supervising, and actively encouraging her non-lawyer staff to
11 sign a declaration, sign away privacy, and disclaim copyright without properly
12 informing Plaintiff Raj Abhyanker in advance, Sweeney exposed Plaintiff Raj
13 Abhyanker to risk or peril for their PACERALERT trademark as described by
14 the USPTO web page titled “Proper representation in trademark matters”
15 (**Exhibit L**), including but not limited to (1) delaying and prolonging in the
16 trademark application process, potentially leading to abandonment of the
17 PACERALERT application, and jeopardizing the validity of any resulting
18 registration.
19
20
21

22 151. Sweeney each breach fiduciary duties to Plaintiff Raj Abhyanker by
23 failing to properly supervise legal assistants, paid search specialists, and/or
24 on-page marketing specialists in violation of 37 CFR §11.503 – Duty to
25 supervise non-lawyers. Specifically, Defendants each failed to supervise a
26 non-practitioner assistant employed or retained by or associated with
27
28

⁹ For example, **Exhibits S, T, U, and V** are ethics articles and official USPTO Rules in **Exhibit A and B**.

1 MyCorporation while being responsible for conduct of such a person that would
2
3 be a violation of the USPTO Rules of Professional Conduct if engaged in by a
4 practitioner.

5 152. At all times mentioned here, Defendants failed to exercise the required
6 standard of care and by failing have jeopardized the validity of the Plaintiffs'
7 PACERALERT trademark.
8

9 153. Further, as a direct and proximate result of the negligence, omissions,
10 and/or intentional acts of Defendants, Plaintiff Raj Abhyanker have sustained
11 damages, among other things loss in legal fees paid to MyCorporation in the
12 amount of \$149, the government fee of \$275 and other amounts which will be
13 determined according to proof at trial.
14
15

16 **SIXTH CLAIM FOR RELIEF**
17 **BREACH OF FIDUCIARY DUTIES**
18 **(Against Sweeney and DOES 1-50)**

19 154. Plaintiffs incorporate herein by reference paragraphs **1-153** above.
20

21 155. MyCorporation is not a law firm in the United States and is not
22 authorized to practice law in any state.

23 156. In addition, upon reason and belief, Sweeney owed a fiduciary duty to
24 Plaintiff Raj Abhyanker when MyCorporation.com collected more than \$149 in
25 legal service and government fees from Plaintiff Raj Abhyanker without
26 depositing the funds into an IOLTA trust account and conducting a conflict
27
28

1 check against existing customers and adverse parties for the PACERALERT
2 trademark with customers of MyCorporation Business Services, Inc.

3
4 157. Sweeney has breached her fiduciary duty by purposefully engaging in
5 the unauthorized practice of law with respect to the signing of the
6 PACERALERT trademark on behalf of Plaintiff Raj Abhyanker using
7 non-attorney staff while falsely implying that no legal advice was to be received
8 in the “non-attorney” trademark filing service linked to a Google advertisements
9 falsely implying that competent trademark filing services will be provided.
10
11

12 158. Moreover, Sweeney breached her fiduciary duty to Plaintiff Raj
13 Abhyanker by not supervising non-lawyer assistants who fraudulently signed a
14 declaration, waived privacy rights, and waived underlying copyrights in the
15 federal trademark application for PACERALERT.
16
17

18 159. In addition, Sweeney owed a fiduciary duty to Plaintiff Raj Abhyanker
19 to act at all times in good faith and in Plaintiff Raj Abhyanker’s best interests,
20 and had a duty, among other things, to perform the services for which her
21 corporate entity MyCorporation was retained with reasonable care and skill to
22 prepare and file the PACERALERT trademark, to act in the Plaintiff Raj
23 Abhyanker highest and best interests at all times, and to not expose Plaintiff Raj
24 Abhyanker to unnecessary risk or peril.
25
26

27 160. By not supervising, and actively encouraging her non-lawyer staff to
28

1 sign a declaration, sign away privacy, and disclaim copyright without properly
2 informing Plaintiff Raj Abhyanker in advance, Sweeney exposed Plaintiff Raj
3 Abhyanker to risk or peril for their PACERALERT trademark as described by
4 the USPTO web page titled "Proper representation in trademark matters"
5 (Exhibit L), including but not limited to (1) delaying and prolonging in the
6 trademark application process, potentially leading to abandonment of the
7 PACERALERT application, and jeopardizing the validity of any resulting
8 registration.
9

10
11
12 161. Sweeney each breach fiduciary duties to Plaintiff Raj Abhyanker by
13 failing to properly supervise legal assistants, paid search specialists, and/or
14 on-page marketing specialists in violation of 37 CFR §11.503 – Duty to
15 supervise non-lawyers. Specifically, Defendants each failed to supervise a
16 non-practitioner assistant employed or retained by or associated with
17 MyCorporation while being responsible for conduct of such a person that would
18 be a violation of the USPTO Rules of Professional Conduct if engaged in by a
19 practitioner.
20
21
22

23 162. At all times mentioned here, Defendants failed to exercise the required
24 standard of care and by failing have jeopardized the validity of the Plaintiffs'
25 PACERALERT trademark.
26

27 163. Further, as a direct and proximate result of the negligence, omissions,
28

1 and/or intentional acts of Defendants, Plaintiff Raj Abhyanker have sustained
2 damages, among other things loss in legal fees paid to MyCorporation in the
3 amount of \$149, the government fee of \$275 and other amounts which will be
4 determined according to proof at trial.
5

6
7 **PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiffs pray judgment as follows:

9
10 1. Temporary and permanent injunctions as defined herein be entered in their
11 favor and against all Defendants, and any company or entity in which
12 Defendants have an ownership or beneficial interest, first temporarily and then
13 permanently restraining and enjoining them, directly or indirectly, on their own
14 or as a partner, or an employee from operating websites known as
15 www.MyCorporation.com, www.mycropvault.com, www.registered-agent.com,
16 www.taxact.com, or any other website that attempts to offer any legal services
17 requiring signing documents constituting the practice of law including, but not
18 limited to, U.S. incorporation services, and U.S. trademark filing and
19 prosecution services including for trademark filings, trademark search,
20 trademark watch, office actions, statements of use, oppositions, trademark
21 watch, renewal, opposition, and litigation services.
22

23
24 2. From further acts of false and misleading advertising and unfair
25 competition that would damage or injure Plaintiffs.
26
27
28

1 3. The Court find MyCorporation's acts of false and misleading advertising
2 and unfair competition to be knowing and willful, and an exceptional case
3 within the meaning of 15 U.S.C. §1117 and California law.
4

5 4. Restitution as allowed under applicable statutes.
6

7 5. Compensatory damages in an amount believed to be in excess of four
8 million dollars (\$4,000,000) to be determined at trial. Plaintiffs' damages are
9 continuing each day as they are unable to compete fairly due to Defendant'
10 unlawful actions, and they will seek treble recovery of all additional damages
11 they incur during the pendency of this lawsuit.
12

13 6. Punitive damages in an amount to be determined at trial.
14

15 7. Legal and equitable further relief as this court finds just and proper.
16

17 8. Permanent exclusion from practice of law before the USPTO and the State
18 of California of owner of MyCorporation Business Services, Inc., Deborah
19 Sweeney.
20

21 9. Order compelling the USPTO to follow its stated procedures for
22 notification to affected applicants of an excluded marks for all trademarks in
23 which government fees were paid by the excluded party (**Exhibit X**) including,
24 but not limited notifications to the affected applicant or registrant that:
25

- 26 i. MyCorporation Business Services, Inc. and Deborah Sweeney
27 are not entitled to practice before the USPTO in trademark
28

1 matters and, therefore, may not represent the applicant or
2 registrant.
3

4 ii. Any trademarks and documents filed by MyCorporation
5 Business Services, Inc. and/or Deborah Sweeney are *void ab*
6 *initio*, meaning they were invalid from the start of any action
7 taken by the excluded party.
8

9
10 iii. MyCorporation Business Services, Inc. non-lawyer assistants
11 and/or Deborah Sweeney may not sign declarations on behalf of
12 customers, sign checkboxes, pay government fees, prepare
13 trademark applications, assist with responses to the USPTO's
14 actions, authorize examiner's amendments or priority actions,
15 conduct interviews with USPTO employees, or otherwise
16 represent an applicant, registrant, or party to a proceeding before
17 the USPTO.
18

19
20 iv. All correspondence concerning the application or registration will
21 be sent to the domestic representative if one has been appointed,
22 or, alternatively, and in most circumstances, to the applicant or
23 registrant at his/her address of record.
24
25

26 10. Plaintiffs be awarded costs, prejudgment interest and attorneys' fees
27 pursuant to 15 U.S. Code § 7706 of the Federal Trade Commission Act for
28

1 exceptional case, and other applicable statutes.
2
3

4 Respectfully submitted this Monday January 8, 2018.
5

6 LEGALFORCE RAPC WORLDWIDE P.C.
7

8
9 /s/ Raj V. Abhyanker
10 Raj V. Abhyanker
11 California State Bar No. 233,284
12 Attorney for Plaintiffs:
13 LegalForce RAPC Worldwide, P.C.,
14 LegalForce, Inc., and
15 Raj V. Abhyanker
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JURY TRIAL DEMAND

Plaintiffs hereby request a jury trial for all causes of action alleged in this Complaint.

Respectfully submitted this Monday January 8, 2018.

LEGALFORCE RAPC WORLDWIDE P.C.

By /s/ Raj V. Abhyanker
Raj V. Abhyanker
California State Bar No. 233,284
Attorney for Plaintiffs:
LegalForce RAPC Worldwide, P.C.,
LegalForce, Inc., and
Raj V. Abhyanker